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VIA HAND DELIVERY

Magalie Roman Salas, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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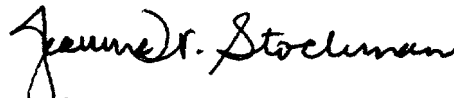
Re: COMMENTS OF WINSTAR COMMUNICATIONS, INC.
Local Competition and Broadband Reporting, CC Docket No. 99-301

Dear Ms. Salas:

On behalf of Winstar Communications, Inc. ("Winstar"), enclosed please find an original and four (4) copies of its comments in the above-referenced proceeding. Kindly date stamp and return the enclosed extra copy of this filing.

Should you have any questions regarding this matter, please do not hesitate to contact us.

Very truly yours,



Patrick J. Donovan
Jeanne W. Stockman

Counsel for Winstar Communications, Inc.

Enclosures

cc: Lawrence A. Walke
Lawrence E. Strickling
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Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)
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Local Competition and Broadband Reporting)
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CC Docket No. 99-301

REPLY COMMENTS OF WINSTAR COMMUNICATIONS, INC.

Winstar Communications, Inc. and its operating subsidiaries (collectively "Winstar"),¹ by its undersigned counsel, hereby files Reply Comments regarding the Federal Communications Commission's ("FCC" or "Commission") Notice of Proposed Rulemaking ("NPRM") in the above-referenced proceeding.² Winstar agrees with those commenters who oppose the Commission's imposition of mandatory data collection obligations on CLECs and broadband service providers. As evidenced by the comments in this proceeding, the proposed mandatory reporting requirements are unduly burdensome and unnecessary. Winstar submits that the Commission should retain a voluntary reporting scheme with simplified data reporting that would facilitate participation by a wide range of carriers. Finally, in accordance with an overwhelming majority of commenters, Winstar urges the Commission to afford confidential treatment to any collected data, whether submitted on a voluntary or mandatory basis.

¹ Winstar is a publicly-held company (traded on the NASDAQ) which, among other things, develops, markets, and delivers local telecommunications and broadband services in the United States. Through its operating affiliates, Winstar provides facilities-based local telecommunications services on a point-to-point basis principally using wireless, digital millimeter wave capacity in the 38 gigahertz (GHz) band.

² *Local Competition and Broadband Reporting*, CC Docket No. 99-301, Notice of Proposed Rulemaking, rel. Oct. 22, 1999 ("NPRM").

I. THE COMMISSION SHOULD RETAIN AND SIMPLIFY ITS VOLUNTARY REPORTING REQUIREMENTS RATHER THAN IMPOSING MANDATORY REQUIREMENTS THAT ARE UNDULY BURDENSOME TO CARRIERS.

As demonstrated by the comments filed in this proceeding, the proposed mandatory data collection would be unduly burdensome to carriers.³ Much of the data requested by the FCC is beyond the scope of what competitive carriers collect in the normal course of business or for most other regulatory proceedings.⁴ Winstar, as well as other competitive local exchange carriers ("CLECs"), would have to completely overhaul internal recordkeeping functions in order to comply with the proposed requirements.⁵ Moreover, the initial round of comments provide no support for the FCC's speculation⁶ that its proposed reporting will supplant state reports and reduce carriers' overall reporting burden.⁷ Most importantly, the proposed mandatory requirements are not reasonably calculated to yield significantly more insight into the development of local competition than what is available through voluntary reporting. Accordingly, Winstar submits that the FCC should focus on simplifying its voluntary data collection program to facilitate participation and compilation of information necessary for the FCC to analyze the state of broadband competition.

The Commission already adequately tracks the status of local telephone competition and the deployment of advanced telecommunications capability through the voluntary collection of data. The NPRM notes that voluntary surveys have "yielded much useful information about evolving patterns of local competition."⁸ With some modifications, the Commission can increase the value of voluntary data collection such that it becomes a highly effective information-gathering tool thereby eliminating the need to impose burdensome mandatory obligations.

³ See, e.g., Comments of Competitive Telecommunications Association "(Comptel Comments)"; Comments of Frontier Corporation.

⁴ See Comptel Comments at 3. Comptel observes that the proposed reporting format was based on an incumbent local exchange carrier ("ILEC") local competition survey and consequently seeks information based on an outdated regulatory scheme that was never applicable or meaningful to competitive carriers.

⁵ See, e.g., Comments of NEXTLINK Communications, Inc. at p. 3.

⁶ NPRM, ¶ 16.

⁷ Only two state entities filed comments, and neither indicated that state reporting would be reduced or eliminated as a result of the NPRM's proposal. Comments of the Arkansas Public Service Commission; and Comments of the Office of the Attorney General for the State of Tennessee.

⁸ NPRM, ¶ 18.

As mentioned above, the proposed data collection requests information that competitive carriers do not generally compile in the normal course of business. The FCC should work with competitive carriers to develop information requests that serve the FCC's purposes and that can be readily satisfied by respondents. The FCC should also simplify its information requests and formatting requirements to allow carriers greater flexibility and reduce the burden of compliance. This course of action would address the Commission's concern that participation in past voluntary surveys has been "spotty," while also remaining true to the Commission's commitment to limit the burdens imposed by information collection.¹⁰ In accordance with the position of a majority of commenters, such reports should be voluntarily submitted on an annual basis consistent with the Commission's own reporting obligations.¹¹ As discussed below, the Commission would also greatly enhance the quality and quantity of reported data if it maintained such data's confidentiality and only released it in an aggregate form. Accordingly, Winstar urges the Commission to retain its current voluntary data collection and to consider making modifications which would ease carriers' ability to comply. Proceeding in this manner would fully serve the Commission's needs while simultaneously minimizing the burden to carriers.

II. ALL DATA COLLECTED BY THE COMMISSION, WHETHER SUBMITTED ON A VOLUNTARY OR MANDATORY BASIS, SHOULD BE KEPT CONFIDENTIAL AND ONLY PUBLICLY RELEASED IN AN AGGREGATED FORM.

The comments in this proceeding overwhelmingly support Winstar's position that any data collected by the Commission, regardless of whether reporting remains voluntary or becomes mandatory, should be made publicly available only on an aggregated basis in order to preserve carrier confidentiality. As stated by many commenters, full disclosure will not advance Commission objectives and is likely to cause substantial harm to the competitive position of many new market entrants while also potentially impeding the deployment of innovative new services.¹² Winstar believes that the Commission risks frustrating its information collection effort

⁹*Id.*

¹⁰ NPRM, ¶ 4.

¹¹ *See, e.g.*, Comments of AT&T Corp. at p. 13; Comments of GTE Service Corp. at p. 10; and Comments of Sprint Corporation at p. 2.

¹² *See, e.g.*, Comments of Allegiance Telecom, Inc. at pp. 3-5; Comments of MediaOne Group, Inc. at pp. 11-12.

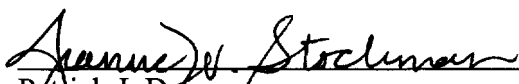
unless it assures carriers that data will be kept confidential. Accordingly, Winstar urges the Commission to reject its tentative conclusion and to disclose information on an aggregate basis only. To do so would benefit all parties by facilitating greater participation in the Commission's data collection process, advancing Commission objectives.

III. CONCLUSION

Winstar opposes the mandatory collection of data because the substantial burdens it would impose outweigh the benefits that would result. Winstar urges the Commission to simplify its voluntary reporting program to facilitate participation and enhance the quality and quantity of information reported without placing undue burdens on carriers. Maintaining the confidentiality of submitted data and releasing it only in an aggregate form further encourages participation and serves the Commission's objectives while addressing carriers' legitimate need for confidentiality.

Respectfully submitted,

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Dated: December 20, 1999